

### **REMARKS**

#### **A. The Status of the Claims and the Amendments**

By the present amendment, claims 3, 4, 17, and 66 have been amended to more particularly define the Applicants' invention and to claim it with greater specificity. The amendments to claims 3, 4, 17, and 66 are supported by the specification and the original claims. No new matter have been added.

Claims 6-9 reciting various hydrophilic polymers other than PEG-3400 have been canceled without prejudice in view of the amendment to claim 17 requiring only PEG-3400. Claim 10 reciting PEG-3400 has been canceled to eliminate redundancy. Claims 1, 2, 5, 11, 14-16, 18-21, and 36-60 have been previously canceled, and claims 66-81 have been previously allowed.

After the present amendment has been entered, claims 3, 4, 12, 13, 17, 22-35, 61, and 63-81 will be pending, of which claims 12 and 13 were previously withdrawn from consideration as directed to non-elected species. It is submitted that the amendments place all the claims that have not been previously allowed in condition for allowance. Entry of the amendments is respectfully requested.

#### **B. Rejection Under 35 U.S.C. § 103(a)**

Claims 3, 4, 6-10, 17, 22-35, 61 and 63-65 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the published PCT patent application WO 96/40285 (Unger et al.). This rejection is respectfully traversed on the following grounds.

The standard that has to be satisfied for making a valid prima facie case of obviousness was discussed previously. The Applicants respectfully submit that in view

of the current amendments, this standard has not been met with regard to claim 17. Also, the rejection is moot with regard to claims 6-10, since claims 6-10 have been canceled.

More specifically, claim 17, as amended, now recites a general structure where "X<sup>2</sup> is C(=O);", "R<sup>7</sup> is (CH<sub>2</sub>)-(CH<sub>2</sub>);", and "P is PEG." Unger et al. fail to describe or suggest a composition that comprises a compound that satisfies all these limitations. Indeed, with respect to the moiety X<sup>2</sup>, all that Unger et al. teach is the moiety C(=O)-N-alkyl, and with respect to the polymeric moiety, all that Unger et al. teach is generic PEG.

The Examiner has conceded that "the general compound formula taught by Unger et al. does not encompass compounds having R<sup>7</sup> as an ethylene group and X<sup>2</sup> as C(=X<sup>3</sup>), with P as PEG-3400" (see, page 11, lines 1-3 of the Final Office Action). Accordingly, it is respectfully submitted that there is nothing in Unger et al. that would motivate those skilled in the art to make targeted vesicle compositions having liposomes encompassing a compound as claimed in claim 17, as amended.

In view of the foregoing, claim 17 is considered patentably distinguishable over, Unger et al. Claims 6-10 have been canceled; accordingly, the rejection with respect to these claims has become moot. Each of claims 3, 4, 17, 22-35, 61 and 63-65 directly or indirectly depends on claim 17, and is patentably allowable for at least the same reason. Reconsideration and withdrawal of the rejection of claims under 35 U.S.C. §103(a) are, therefore, respectfully requested.

In re Application of:  
Unger et al.  
Application No.: 09/699,679  
Filed: October 30, 2000  
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Attorney Docket No.: IMARX1280

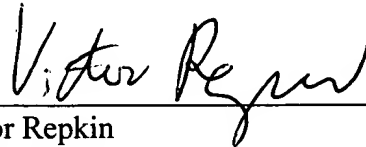
**CONCLUSION**

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved, the Examiner is requested to contact the undersigned at the telephone number given below so that a prompt disposition of this application can be achieved.

No fee is deemed to be due in connection with this response. However, if any fee is due, the Commissioner is hereby authorized to charge any other fees associated with the filing submitted herewith, or credit any overpayments to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A duplicate copy of the Transmittal Sheet is enclosed.

Respectfully submitted,

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